

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

V.

THOMAS ALBERT MCCLOUD

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4:06-CR-281(1)

**REPORT AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE**

On November 17, 2008, the Court held a hearing on the Government's Petition to Revoke Supervised Release. The Government was represented by Assistant United States Attorney Ernest Gonzalez . Defendant was represented by R. J. Hagood.

Defendant was sentenced on October 9, 2007 before the Honorable Michael H. Schneider of the Eastern District of Texas after pleading guilty to the offense of Felon in Possession of a Firearm, a Class C felony. This offense carried a statutory maximum imprisonment term of 10 years. The guideline imprisonment range, based on a total offense level of 12 and a criminal history category of I, was 10 to 16 months. Defendant was subsequently sentenced to 13 months imprisonment followed by a three-year term of supervised release subject to the standard conditions of release, plus special conditions to include drug aftercare; mental health treatment; and a \$100 special assessment. On December 17, 2007, Defendant completed his period of imprisonment and began service of the supervision term.

On October 16, 2008, the instant petition to revoke was filed. In its petition, the Government alleges Defendant violated the following conditions:

- 1) Defendant shall not commit another federal, state, or local crime. Specifically, the

Government alleges as follows. On October 1, 2008, the defendant committed the misdemeanor offense of Falsification of Drug Test Results. This offense stemmed from the defendant's attempt to use a urination device during collection of a urine specimen at the U.S. Probation Office in Plano, Texas.

2) Defendant shall refrain any unlawful use of a controlled substance. Defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court. Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substances, except as prescribed by a physician. Specifically, the Government alleges as follows. On June 16, 2008, the defendant submitted a urine specimen at Bob Alterman, a random collection site, 2608 Avenue K, Plano, TX, which tested positive for methamphetamine. On July 1, 2008, the defendant admitted verbally and in writing to using the controlled substance methamphetamine.

3) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as the defendant is released from the program by the probation officer. Specifically, the Government alleges as follows. The defendant failed to report as directed for drug testing at Bob Alterman on January 17, 2008; February 4, 28, 2008; March 24, 2008; April 21, 29, 2008; May 12, 14, 2008; June 27, 20008; July 1, 18, 2008; and August 1, 4, 8, 11, 2008.

The Court scheduled a revocation hearing November 17, 2008. At the hearing on the Government's petition, Defendant pled true to the second and third allegations as set forth above. The Government withdrew the first allegation. Defendant consented to the undersigned's taking

of the plea. Based on the Defendant's plea of true to the allegations, the Court found Defendant violated his conditions of supervised release as alleged in the U.S. Probation Office's violation petition. The Court thereafter recommended Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of six months, with no term of supervised release to follow. Based on the foregoing, it is

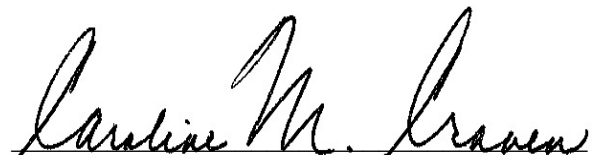
RECOMMENDED that Defendant's plea of true to the allegations as set forth in the Government's petition be **ACCEPTED**. Further, it is

RECOMMENDED that Defendant's supervised release be **REVOKED**. Further, it is

RECOMMENDED that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of six months, with no term of supervised release to follow.

The parties were informed of the right to file objections to the recommendations as set forth above. Defendant was also advised that he has the right to be present with counsel, to speak in his own behalf, and to have counsel speak in his behalf before any additional sentence is imposed.

SIGNED this 18th day of November, 2008.


CAROLINE M. CRAVEN
UNITED STATES MAGISTRATE JUDGE